THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

On Wednesday, the first day of Feburary,

two thousand and six .

W.P.No.23703 of 1996

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Gunda Veeresham

….Petitioner.

And:

The Mandal Revenue Officer, Peddapalli, Karimnagar

District and another.

……..Respondents.

O R D E R:

Petitioner having purchased 143 square yards in S.No.623 of Peddapalli village, made an application to the 2nd respondent Grampanchayat for construction of a shop therein, whereupon it issued notification, on 1.12.1995, calling for objections and thereafter did not take any steps. Since permission was not refused within a period specified, by taking advantage of the proviso to Section 127(3) of the Panchayatraj Act ('the Act'), petitioners started making construction, whereupon, 2nd respondent through a letter dated 25.6.1996, intimated the petitioner that since first respondent through the communication

dated 13.11.1995 directed not to sanction permission for construction in S.No.623 of Peddapalli, permission sought for construction by him is refused. Questioning the said communication, petitioner filed this petition.

2) Though the writ petition is filed in 1996, none of the respondents filed their counter affidavits till today.

3) Heard the learned counsel for the petitioner. The learned standing counsel sought further time for filing counter affidavit of 2nd respondent I find no ground to grant further time.

4) Since, the 2nd respondent issued notification on 1.12.1995 calling for objections on the application of the petitioner for constructions, and since second respondent did not pass an order either granting or refusing permission to the petitioner within the time stipulated, petitioner by taking advantage of the proviso to Section 127(3) of the Act, proceeding with the construction cannot be found fault with.

5) The notice dated 25.6.1996 issued to the petitioner is to stop proceeding with further construction. Question of refusing permission on 25.6.1996 for an application submitted on 1.12.1995, has no sanction of the Act. Here, it should be stated that while admitting the writ petition the learned Judge by the order dated in WPMP.No.29268 of 1996, gave a direction to the respondents not to obstruct the construction being made by the petitioner in his plot. That order is still in force, as the respondents did not seek vacation of that order. The learned counsel for the petitioner states that petitioner completed the construction and is enjoying the property

6) Since the petitioner had made the construction by invoking the benefit of deeming provision contained in Section 127(3) of the Act and since there is no information as to whether the construction made by the petitioner is in accordance with the building rules and other relevant statutory provisions, no further orders are necessary in this petition.

7) It is made clear that if the petitioner had violated any of the provisions of the Act and building Rules etc., while constructing the building, respondents are at liberty to take proceedings against the petitioner and the construction made by him, by taking recourse in due process of law. The writ petition is

disposed of accordingly. No costs.

JUSTICE C.Y.SOMAYAJULU

1st February 2006.

BCS